Supreme Court, U.S.
FILED
951970 APR 22 1996
OFFICE OF THE CLERK

NO.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

WARREN J. SUEHL
Petitioner

VIRGIL H. SUEHL
Respondent

ON A PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS
FOR THE EIGHT CIRCUIT

PETITION FOR WRIT OF CERTIORARI

WARREN J. SUEHL
4418 Hwy. 136
Clinton, Iowa
319-242 6637

Pro-Se

KAT

QUESTIONS PRESENTED

1. Did the U.S. Court of Appeals error by continuing to name the State of Iowa as the Defendant after my petition was amended naming the person that accused me of a crime, as the only defendant, thus the court deprived a Constitutional issue from being reviewed, as the State of Iowa cannot be sued in Federal Courts.

2. Did the U.S. District Court of the Southern District error by denying to review the question under the 6th. amendment to U.S. Constitution which guarantees every person accused of a crime to have an impartial Jury.

LISTING OF PARTIES

The parties to the proceedings below were petitioner Warren J. Suehl and the Respondent Virgil H. Suehl.

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TABLE OF AUTHORITIES

SIXTH AMENDMENT TO THE U.S. CONSTITUTION	7

STATEMENT OF THE CASE

On Jan. 29, 1992 the Iowa District Court for Clinton County, had set the date for a jury trial for a criminal case against me. Upon arrival at the court, the office of Clerk of Court discovered that their Office had forgotten to call a Jury Panel for my case.

The Clinton County Sheriff was sent out to find jurors, the Sheriff showed up with some Courthouse employees, 5 women and one man finally composed the jury. I learned that this one man was a co-worker of the person who was accusing me of the crime. this man was appointed foreman of the Jury.

My Attorney filed an objection, as he felt that Juror drawing from cross section of the community is constitutionaly required but the Magistrate Judge overruled his objection and ordered the trial to proceed.

This jury certainly was not impartial or they would have accepted the testimony of the Deputy Sheriff that investigated and took pictures of the incident as truthful.

The Jury overlooked the Deputy's testimony at the trial and found me guilty.

An Attorney petitioned all of the Iowa courts to try to get me a re-trial with an impartial jury, but none of the Iowa Courts would grant me a re-trial.

Following the decisions of the Iowa Courts not to grant me a re-trial, the person who accused me of the crime, sued me in District Court for Punitive Damages, A District Court Judge awarded the person that accused me of the crime has been awarded heavy Punitive damages because I had been found Guilty by a jury that was not impartial. At the present time I have a Bond for the Punitive damages, held by the Clerk of Courts Office, in Clinton Iowa.

On Aug. 4, 1995 I filed a petition with

the U.S. District Court of the Southern District of Iowa to re-quest a re-trial because I had been found guilty by a jury which was not impartial. This Court stated that my case would be reviewed if I retained an attorney to Amend my petition, as I had placed the State of Iowa on my petition as the responded. the Judge stated that the State of Iowa could not be sued in Federal Court, because of the 11th. amendment to the Constitution.

I was unable to retain an attorney but I did Amend the respondent, to the person that accused me of the crime.I attached the Deputy Sheriffs transcript, and the transcript of the Attorney that defended me pointing out the testimony of the attorney when he accused the trial procedure of not having a Jury panel to pick a cross section of the community, but the U.S. Judge of the District Court Denied My Petition. I than filed a petition with the U.S. Court of

Appeals for the eight circuitand prayed for a retrial with an impartial Jury, but this Court continued to name the State of Iowa as the defended, even after I had amended my petition naming the Defendant who had accused me of the crime, thus depriving a Constitutional issue from being reviewed, as the State of Iowa cannot be a respondent in Federal Courts. On Jan. 22nd. 1996 this Court Denied my Petition.

Juror drawing from represenative cross section of community is contitutionally required, and systematic exclusion of society, preventing jury from being representative of community, violates Constitutional right of accused to impartial Jury.

OPINIONS BELOW

The petition and judgment of the U.S. Court of Appeals, which is the subject of this petition is reported under Appendix 1 A. The Petition and the Judgment to the U.S. District Court is reported under Appendix 2 B.

JURISDICTION

A timely petition for rehearing and reconsideration was denied by the United States Court of Appeals, eight circuit, on the following date. Jan. 22, 1995 and a copy denying rehearing appears at the Appendix 1 A.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The sixth amendment to the U.S. Constitution states: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature

and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

REASONS FOR GRANTING THE PETITION

Neither the U.S. District Court or the U.S. Court of Appeals, eight circuit addressed the issue: If I had the right to have the Courts to grant me relief against a judgment, which was obtained through a mistake of the Iowa Clerk of Court Office of Clinton County Iowa, because this office had forgotten to summon a panel of jurors for the day of my trial, thus preventing me from having an impartial jury, as provided for by the sixth amendment to the U.S. Constitution.

CONCLUSION

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States. I the petitioner herein Prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals, for the eight circuit entered in the above entitled case will order a re-trial in the Iowa District Court in Clinton County, Iowa, so that I may receive Justice to restore my credibility, because I have received heavy losses because the U.S. Constitution was not followed.

Respectfully submitted

Warren J. Suehl

Date. April 1 1996

Notice is hereby given that I, Warren Suehl desire to be heard orally on the submission of this matter to the Supreme Court of the United States.

APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
for the eight circuit

No. 95-3902SID	)	
	)	
Warren J. Suehl	)	
	)	Appeal from the United
Appellant.	)	States District Court
	)	for the Southern
vs.	)	District of Iowa.
	)	
State of Iowa	)	
Appelie	)	
	)	
Virgil H. Suehl,	)	
	)	
Defendant.	)	

The petition for rehearing filed by the appellant has been considered by the court and is denied.

January 22, 1996

Order entered at the Direction of the Court

Michael E Gains
Clerk, US.Court of Appeals, eight circuit.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

WARREN J. SUEHL	)	NO. 3-95-CV-10106
Plaintiff	)	
vs.	)	
STATE OF IOWA	)	ORDER
Defendant	)	

On October 16, 1996, the court dismissed plaintiffs case. Plaintiff has filed a "Motion for reconsideration", reiterating statements in his earlier findings and asserting the court should reconsider the dismissal because plaintiff amended the complaint to name Virgil H. Suehl as a defendant."as he was the party that signed the Sheriffs citation to have the County Attorney to prosecute me for a crime."

As stated in the courts order dismissing this case, Virgil H. Suehl is not a proper

defendant."(A) private person does not act color of law simply because he invokes state authority. The Color-of-Law requirements is not satisfied by alleging that an individual filed a criminal complaint with prosecuting authorities." Brummett v Camble,946 F. 2nd. 1178,1184 (5th. Cir.1991)(citation ommitted) cert denied 504 U.S. 965(1992) Plaintiff's motion to reconsider is without merit.

This case remains closed.

It is so ordered.

Dated this 31st. day of October, 1995

Ronald E. Longstaff

Judge

Southern District
of Iowa

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

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SUPPLEMENTAL APPENDIX

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and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

REASONS FOR GRANTING THE PETITION

Neither the U.S. District Court or the U.S. Court of Appeals, eight circuit addressed the issue: If I had the right to have the Courts to grant me relief against a judgment, which was obtained through a mistake of the Iowa Clerk of Court Office of Clinton County Iowa, because this office had forgotten to summon a panel of jurors for the day of my trial, thus preventing me from having an impartial jury, as provided for by the sixth amendment to the U.S. Constitution.

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Respectfully submitted

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	)	
State of Iowa	)	
Appelie	)	
	)	
Virgil H. Suehl,	)	
	)	
Defendant.	)	

The petition for rehearing filed by the appellant has been considered by the court and is denied.

January 22, 1996

Order entered at the Direction of the Court

Michael E Gains
Clerk, US.Court of Appeals, eight circuit.

APPENDIX A

UNITED STATES COURT OF APPEALS
for the eight circuit

No. 95-3902SID

Warren J. Suehl, Appellant	Appeal from the United States District Court for the Southern District of Iowa.
vs.	
State of Iowa, Appellee	
Virgil H. Suehl Defendant.	

JUDGMENT

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is affirmed. see eight circuit Rule 47A(a).

Dec. 6, 1995

Order Entered at the Direction of the Court

Michael E. Gans
Clerk, U.S. Court of Appeals, Eight Circuit

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APPENDIX B

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DAVENPORT DIVISION

WARREN J. SUEHL Plaintiff	)	NO. 3-95-CV-10106
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STATE OF IOWA Defendant	)	ORDER

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